

HOUSE BILL 3807  
By Harmon

AN ACT to amend Tennessee Code Annotated, Title 35;  
Title 45; Title 47; Title 56; Title 62 and Title 66,  
relative to certain loans, mortgages and lending  
practices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 35-5-101, is amended by adding the following language as a new subsection thereto:

(e) In any sale of land to foreclose a deed of trust, mortgage, or other lien securing the payment of money or other thing of value or under judicial orders of process, the trustee that sells property shall send to the debtor and any co-debtor a copy of the notice required in §35-5-104. The notice shall be sent on or before the first date of publication provided in this section. The notice shall be sent to the following:

(1) If the debtor:

(A) The location of the property; and

(B) The last known residence of the debtor or such other address provided by the debtor to the mortgagor or trustee, at least twenty (20) days prior to the publication date, if such residence or other last known address is different from the address of the property.

(2) If a co-debtor, the last known residence address or other address of the co-debtor which is provided to the mortgagor or trustee at least twenty (20) days prior to the publication date, but only if such residence or such other address is both different from the address of the property and different from that of the debtor.

SECTION 2. Tennessee Code Annotated, Section 47-15-101(1), is amended by deleting the semicolon (;) and word “and” in subdivision (A), and by substituting instead a period (.); and by deleting subdivision (B) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 47-15-102, is amended by deleting the section in its entirety, and by substituting instead the following language as a new Section 47-15-102:

(a) Notwithstanding any other law to the contrary, the maximum effective interest rate for a home loan is hereby set at:

(1) For a first mortgage loan, an amount equal to not greater than ten percent (10%) over the average yield on treasury securities as published by the federal reserve board from time to time, having comparable periods of maturity on the 15<sup>th</sup> day of the month immediately preceding the month in which the loan is completed.

(2) For any second or subsequent mortgage loan, twelve percent (12%) above the average yield of treasury securities as published by the federal reserve board from time to time, having comparable periods of maturity on the 15<sup>th</sup> day of the month immediately preceding the month in which the loan is completed.

(b) In the event the treasury discontinues the issuance of securities for any particular term, the maximum effective rate of interest per annum shall be set at the market yield of the longest term government bonds adjusted to thirty-year maturity by the department of the treasury.

SECTION 4. Tennessee Code Annotated, Title 47, Chapter 15, is amended by adding the following language as a new, appropriately designated section:

47-15-105.

(a) It shall be unlawful for any person to execute any loan agreement, mortgage, deed, deed of trust, loan application, settlement statement, or other loan or closing document for a home loan if any material terms of the loan or transaction, including but not limited to, the duration, interest rate, or fees, are omitted or incomplete.

(b) It is unlawful for any person to modify (including, but not limited to, any alteration or change) any loan agreement, mortgage, deed, deed of trust, loan application, settlement statement, or other loan or closing document, after the execution of such document, unless such modification is:

(1) With the consent of the person or persons affected by the change and such consent is in writing; or

(2) The modification is authorized by a valid power of attorney authorizing such modification. A power of attorney is valid for this purpose if it specifically includes the type or nature of the modification.

(c) It is unlawful for any person to encourage, solicit, or conspire with any other person to violate this section.

(d) The loan or transaction of any person who violates this section shall be voidable by the person not at fault for the violation; provided, however, the obligation of any person who is not in violation of this act shall be enforceable according to the terms of the contract.

SECTION 5. This act shall take effect on July 1, 2006, the public welfare requiring it.